

# SENATE BILL REPORT

## SB 6868

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As Reported by Senate Committee On:  
Human Services & Corrections, February 25, 2010

**Title:** An act relating to the reasons for which a manifest injustice disposition may be imposed upon a juvenile offender.

**Brief Description:** Limiting the reasons for which a manifest injustice disposition may be imposed upon a juvenile offender.

**Sponsors:** Senator Hargrove.

**Brief History:**

**Committee Activity:** Human Services & Corrections: 2/23/10, 2/25/10 [DPS].

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### SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

**Majority Report:** That Substitute Senate Bill No. 6868 be substituted therefor, and the substitute bill do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland, Carrell, Kauffman and McAuliffe.

**Staff:** Jennifer Strus (786-7316)

**Background:** Washington uses a determinate sentencing structure in committing juvenile offenders. Youth committed to Juvenile Rehabilitation Administration custody have court determined minimum and maximum sentence terms; for example 15 to 36 weeks. Sentencing length is determined using a point system that takes offense seriousness and criminal history into account. Ordinarily, standard range sentences are applied based on the offender's point level. In determining the punishment to be imposed, the court must consider both aggravating and mitigating circumstances. The court may not consider the following factors when determining punishment:

- the sex of the offender;
- the race or color of the offender or the offender's family;
- the creed or religion of the offender or the offender's family;
- the economic or social class of the offender or the offender's family; and
- whether the offender was or is the subject of a dependency petition.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

Juvenile courts have the authority to sentence outside the standard range through a finding of Manifest Injustice. A judge or juvenile court commissioner can find that the standard range sentence is either too lenient for the seriousness of the offense and order a longer term of confinement (Manifest Injustice Up), or overly punitive and order a sentence less than the standard range (Manifest Injustice Down). The court's finding of Manifest Injustice must be supported by clear and convincing evidence. Youth sentenced under a finding of Manifest Injustice also have proscribed minimum and maximum sentence terms.

**Summary of Bill (Recommended Substitute):** The court cannot consider the juvenile offender's primary need for inpatient or structured mental health or chemical dependency treatment, other than for sex offender treatment, as a factor in determining the punishment to be imposed.

The court cannot base its finding of Manifest Injustice solely on the offender's need for inpatient, structured mental health or chemical dependency treatment, other than for sex offender treatment unless the offender is sentenced in a rural county that does not have chemical dependency or mental health treatment available.

Any juvenile who is currently incarcerated in JRA as a result of a manifest injustice solely for treatment purposes must be paroled as of the effective date of this bill if he or she has completed his or her treatment program.

**EFFECT OF CHANGES MADE BY HUMAN SERVICES & CORRECTIONS COMMITTEE (Recommended Substitute):** A juvenile can be sentenced to treatment through a manifest injustice if the juvenile is sentenced in a rural county that does not have chemical dependency or mental health treatment available. Requires youths in JRA on a treatment manifest injustice to be paroled if they have completed their treatment program.

**Appropriation:** None.

**Fiscal Note:** Requested on February 22, 2010.

**Committee/Commission/Task Force Created:** No.

**Effective Date:** The bill takes effect on July 1, 2010.

**Staff Summary of Public Testimony on Original Bill:** CON: There are only 14 youth currently incarcerated in JRA who received a Manifest Injustice (MI) Up sentence solely because they needed mental health or chemical dependency structured treatment. If this is an issue of the use of MIs then do away with MIs. Reviewed all the cases in which an MI was ordered and every youth who received one deserved it. When a youth gets to the MI stage there is usually nothing else that a court can do with these youth other than MI them. What courts are doing right now with MI Up is appropriate.

The population in JRA of MI Up youth looks big but it is really only 2 percent of the cases counties see every year. One of the reasons the juvenile system exists is to provide treatment to those youth needing it. Some of the youth sent to JRA have been through the local

sanctions numerous times and without an MI Up the court would not be able to send the youth to JRA. JRA has good programs and they have had successes with their programs.

**Persons Testifying:** CON: Judge Godfrey, Superior Court Judge's Association; Tom McBride, Washington Association of Prosecuting Attorneys.